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UNITED STATES DISTRICT COURT FOR
THE DISTRICT OF MASSACHUSETTS

| | | |
|---------------------------|---|------------------|
| UNITED STATES OF AMERICA, |) | |
| |) | |
| Plaintiff, |) | |
| |) | Criminal Action |
| |) | No. 04-10214-GAO |
| vs. |) | |
| |) | |
| |) | |
| MOHAMAD HAMADE, |) | |
| |) | |
| Defendant. |) | |
| |) | |

TRANSCRIPT OF JURY TRIAL
DAY ONE

BEFORE THE HONORABLE GEORGE A. O'TOOLE, JR.
UNITED STATES DISTRICT JUDGE

United States District Court
John J. Moakley U.S. Courthouse
1 Courthouse Way
Boston, Massachusetts 02210
April 18, 2006
9:00 a.m.

* * * * *

SHELLY M. KILLIAN, RPR, CM, CRR
Official Court Reporter
John J. Moakley U.S. Courthouse
1 Courthouse Way, Room 3510
Boston, MA 02210
(617) 737-7117

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1 EXAMINATION INDEX

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JAMES BRATTON

3 DIRECT BY MR. CHAKRAVARTY 110

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5 EXHIBIT INDEX

6

MAR / ADM

Government

7 1 Certified copy of Greek marriage (By stipulation)
certificate

1A

8

English translation of Greek (By stipulation)
marriage certificate

9

10 2 Certified copy of Greek (By stipulation)
certificate of family registry

2A

11

English translation of Greek (By stipulation)
certificate of family registry

12

13 3 Certified copy of Absense of (By stipulation)
divorce

3A

14

English translation of Absense of (By stipulation)
divorce

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16 4 Passport 125

17 5 Passenger receipt and travel itinerary 126

18 5A Customs declaration form 128

19 6 Photocopy of commercial driver's 128
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1 P R O C E E D I N G S

2 (The following proceedings were held in open
3 court before the Honorable George A. O'Toole, Jr.,
4 United States District Judge, United States District
5 Court, District of Massachusetts, at the John J. Moakley
6 United States Courthouse, 1 Courthouse Way, Boston,
7 Massachusetts, on April 18, 2006.

8 The defendant, Mohamad Hamade, is present with
9 counsel. Assistant U.S. Attorneys Kimberly West and
10 Aloke Chakravarty are present.)

11 THE CLERK: All rise. United States District
12 Court for the District of Massachusetts, court is now in
13 session. Please be seated. For jury trial in the
14 United States of America versus Mohamad Hamade, docket
15 04-10214.

16 Would counsel please identify yourselves for
17 the record.

18 MS. WEST: Good morning, your Honor. Kim West
19 for the government.

20 MR. CHAKRAVARTY: Also for the government,
21 Aloke Chakravarty.

22 MR. BONGIORNI: Good morning, Judge. Vincent
23 Bongiorno for Mr. Hamade.

24 THE COURT: Good morning. We will probably
25 get jurors fairly expeditiously, so I wanted to address

1 the motion in limine before we had a pool of jurors.

2 MR. CHAKRAVARTY: May it please the Court,
3 your Honor. Your Honor, last week I filed a motion
4 seeking clarification and also to limit how tangential
5 counsel's arguments and cross-examination may be in this
6 case in which there was at least one officer, an agent,
7 who was assigned to the Joint Terrorism Task Force. He
8 happened to be an Immigration Customs and Enforcement
9 agent, Agent Nevano. Because of his affiliation, there
10 is a possibility that counsel would attempt to explore
11 the Joint Terrorism Task Force mission and information
12 obtained by the JTTF, as it's so-called, in attempting
13 to advance a theory of defense in the case. In
14 anticipation of that, I filed a motion in limine seeking
15 to keep that because it's such a collateral and
16 irrelevant matter to the issues at hand, seeking to
17 limit that.

18 Counsel, as you know, has responded and
19 indicated that, in fact, he does wish to explore that
20 line of questioning, primarily to go into the bias of
21 the government's witnesses, of the government's case,
22 and to elaborate on the nature of the government's
23 case. The government's response to that, your Honor,
24 and because now it became a live issue and there was
25 actually an affirmative gesture indicating there is an

1 intent to go down that road, consequently I did file a
2 voluminous -- apologetically -- a voluminous response,
3 but one that I think adequately and fairly characterizes
4 the state of the law.

5 Primarily there are three reasons, your Honor,
6 why counsel should not be permitted to explore the
7 connection to the Joint Terrorism Task Force, any
8 reference to terrorism, and those are: number one, it's
9 irrelevant to the indictment, your Honor. The defendant
10 is charged with false statements on immigration
11 documents, not charged with any terrorist-related
12 offenses, not charged with anything implicating JTTF.

13 The second is, your Honor, under Rule 403 of
14 the Federal Rules of Evidence, that your Honor has
15 discretion and responsibility in the gatekeeper role to
16 weigh potential probative value of this information
17 versus the risk of unfair prejudice, which I would argue
18 in this case, your Honor, in light of just even the
19 nomenclature, the fact that we're saying terrorism in a
20 case that has to do with immigration, your Honor, would
21 immediately give indication that some juror may indeed
22 be very unfairly prejudiced. It would be certainly
23 distracting to the jury, confuse the jury as to what the
24 issues are and what the defendant is currently charged
25 with.

1 And if your Honor is not so inclined to
2 preclude that line of questioning and argument because
3 of those reasons, then because an honest and complete
4 response to some questions down that line of inquiry
5 would involve classified information, defendant has an
6 obligation to provide notice to the government and to
7 the Court that he intends to go down that road.
8 Assuming that that now has been done, the actual
9 parameters of that questioning have to be known so that
10 we can formulate and balance the intelligence equities
11 in determining, as the Classified Information Procedures
12 Act suggest, in determining what the next course of
13 evidence would be on behalf of the government. It means
14 talking to the intelligence agencies, intelligence
15 equities in that information, predetermine whether it
16 may come in unclassified in a classified format. All of
17 those decisions do require a considerable amount of
18 time. And they're there specifically because CIPA was
19 designed to balance the interests the defendant might
20 have, as well as the government.

21 I would argue, your Honor, in this case we
22 need not reach that point. There is ample
23 constitutional authority, First Circuit authority
24 expounding upon the limitations through
25 cross-examination and purview of a defendant's right to

1 peruse this kind of collateral line of inquiry. So the
2 government's position is, your Honor, we're asking that
3 your Honor allow the motion to preclude the reference to
4 the Joint Terrorism Task Force, these national security
5 issues, as the case proceeds in order to shield the jury
6 from these distracting, confusing, and potentially
7 highly prejudicial issues to the jurors -- excuse me, to
8 the defendant.

9 It may also help, and I just -- as a practical
10 matter, it may also help to specifically identify to
11 your Honor that this issue may come up with all of the
12 witnesses in the case, whether they be called by the
13 defense or by the government. And so it really is
14 important not just in dealing with Agent Nevano who was
15 associated with the Joint Terrorism Task Force, but in
16 any witness the defense could go down the line of
17 inquiry saying, "What information did you obtain from
18 the JTTF?" Or saying you were -- "were you influenced
19 unduly by the JTTF?" In this case at least two of the
20 charges in the indictment occurred before there was even
21 any JTTF investigation. The third was a completely
22 consistent response by the defendant, consistent with
23 these previous two false statements.

24 So the government would caution that it could
25 rear its head in any aspect of the case, so we're asking

1 for a clear delineation. Thank you.

2 THE COURT: Mr. Bongiorno.

3 MR. BONGIORNI: Judge, with respect to the
4 last part of the government's argument, I got a copy of
5 their brief last evening, and I probably could have
6 saved them the trouble. It's not my intention to
7 inquire into any witness about the nature of classified
8 information. And I don't think I ever indicated to the
9 government otherwise. But this case doesn't happen in
10 the vacuum that the government wants to have the jury
11 examine it in. That is, they're going to call four
12 witnesses. They're going to call three people who are
13 from the INS, who were people who interviewed Mr. Hamade
14 about information that he included in a number of
15 different applications. They go by a particular INS
16 number. And I don't want the trier of fact in this case
17 to be left with the impression that this was a matter of
18 happenstance because it's quite clear that the moving
19 party behind all of this is the case agent, Agent
20 Nevano, who is behind the scenes instructing some of
21 these individuals with respect to his suspicions about
22 Mr. Hamade that's based on this classified information
23 that he receives.

24 Now, I don't see a reason to get into what the
25 information was, but in terms of us being able to

1 contest the thoroughness and the competence and the bias
2 in the government's investigation directed toward him, I
3 think that those are perfectly legitimate avenues of
4 inquiry. What the government wants the jury to believe
5 is that, out of the blue, in the latter part of December
6 of 2004 when Mr. Hamade, as alleged by the government,
7 is interviewed by an agent in New York when he arrives
8 on a plane from Greece, that somehow the agent just
9 happened to ask him these questions as part of the
10 normal course of events. And nothing could be further
11 from the truth because the record is replete with
12 evidence that there were a series of phone calls and
13 Agent Nevano did a series of things as part of his
14 occupation in Homeland Security to alert these
15 individuals to the fact that Mr. Hamade was coming and
16 asked that he be intercepted in that regard.

17 So I think it's perfectly legitimate for us to
18 tailor our questions to things like that to expose the
19 fact that there is Agent Nevano who is pulling the
20 strings in the background, even though these witnesses,
21 if left to the government's device, we'd be hamstrung
22 and we couldn't show the jury what was actually going on
23 here. And we think it's important because it
24 demonstrates the bias on the part of the government's
25 investigation and it also deals with --

1 THE COURT: How so? How does it do that?

2 MR. BONGIORNI: Well, in this case, Judge, the
3 defense in this case is going to be -- to deny that the
4 marriage ever took place. And in that regard --

5 THE COURT: The 1991 marriage.

6 MR. BONGIORNI: The 1991 marriage. And in
7 that regard the government has done nothing -- the case
8 agent has done nothing in terms of investigating the
9 bona fides of that marriage. That is, they --
10 obviously the government has sent -- had forensic
11 examination of signatures done in this case. They don't
12 intend to call any witnesses in that regard. The
13 government hasn't had the -- the case agent didn't cause
14 any interviews of witnesses, people who were allegedly
15 present, or interviewed individuals or called people to
16 be able to testify about that event. And so what the
17 jury is going to be left with if the government is
18 successful in this motion is we can't show them a full
19 picture of what happened here, including the motivation
20 and the lack of investigation aimed at determining the
21 central issue in the case, which is really was there a
22 valid marriage?

23 THE COURT: Well, two of the counts --

24 MR. BONGIORNI: All three of the counts, I
25 believe.

1 THE COURT: Two of the counts are signatures
2 on a form?

3 MR. BONGIORNI: No. Two of the counts, Counts
4 Two and Three, and I could look at it in a moment, but
5 under 1546 you can violate the statute two ways: One is
6 by the making under oath and the other is by the
7 subscription, which I presume to be the execution of the
8 signature. So what happens first is Count Two relates
9 to the application of the signature; and then when the
10 interview gets done, the interviewer asks the person to
11 affirm under oath a second time that the information
12 under their signature is true.

13 THE COURT: But in both of those cases, the
14 alleged false statement is written, that is, it's
15 written in the form, and one way of making it is to sign
16 the form and the other way of making it is to say, "Yes,
17 what I have said in the form is true." Is that right?

18 MR. BONGIORNI: Right.

19 THE COURT: So at least as to those, and maybe
20 so I guess that -- your perspective on the case is that
21 those statements, though made, were not false or
22 knowingly false, not that they weren't made?

23 MR. BONGIORNI: Right.

24 THE COURT: Okay. Is that true also of the
25 oral statement?

1 MR. BONGIORNI: The oral statement as best I
2 understand it is the same thing. It relates to the same
3 statement, but it occurs during an interview.

4 THE COURT: But, again, your position is that
5 the statement was not knowingly false rather than it was
6 not made.

7 MR. BONGIORNI: Right.

8 THE COURT: So you won't be contesting the
9 testimony of witnesses that the statements were made.
10 The evidence will be about whether they were knowingly
11 false, the context will be about whether or not they
12 were knowingly false.

13 MR. BONGIORNI: And we will be contesting --
14 there's a statement attributed to Mr. Hamade through the
15 agent in New York, and we will be contesting whether
16 those statements were made.

17 THE COURT: On the reentry.

18 MR. BONGIORNI: Right.

19 THE COURT: And which agent is that?

20 MR. BONGIORNI: That's Agent Bratton. And
21 that's the agent that, our information is, receives a
22 telephone call from Agent Nevano. Agent Nevano does
23 certain things in order to alert the authorities in New
24 York to Mr. Hamade's expected return, and when, and has
25 him brought into Customs. And there are some records

1 that deal with telephone calls from a number of
2 individuals back and forth.

3 THE COURT: Just fill that out a little bit.
4 What was that? Telephone calls?

5 MR. BONGIORNI: There are documents that were
6 provided to me as part of the Jencks material last
7 week. One of them is a lookout notice, and on it are
8 handwritten notations. I'm not yet sure whose they are
9 but there are -- there is documentary information to
10 reflect the fact that there was contact between the case
11 agent, Agent Nevano, and the New York office prior to
12 Mr. Hamade's return to the United States or
13 contemporaneously with it as a result of -- I forget the
14 acronym the agents use. In other words, they were able
15 to take his information, punch it into the computer so
16 that there will be a hit if and when they determine he
17 has either left the country or coming back into the
18 country so that one agency can notify the other agency
19 and they can coordinate their activities based on the
20 nature of the investigation. And that's what we claim
21 occurred here, and we think we have a right to show
22 that.

23 THE COURT: And what does it -- what does it
24 accomplish, I guess, in this case in your view?

25 MR. BONGIORNI: From my view?

1 THE COURT: Yeah.

2 MR. BONGIORNI: Well, it gives the jury a
3 clear picture. That is, that this wasn't something that
4 occurred by accident.

5 THE COURT: What wasn't?

6 MR. BONGIORNI: This interview and this
7 interaction with him. It was caused. It was purposeful
8 and it was done for a reason. And it was important as
9 well. And in this case, even though all of those
10 things --

11 THE COURT: Will the government's evidence be
12 that the government suspected prior to the return that
13 the statements were false?

14 MR. CHAKRAVARTY: The government's evidence
15 will be that on January 10th of 2004, the government had
16 information that the statements were false.

17 THE COURT: How much before?

18 MR. CHAKRAVARTY: About six months before.
19 However, your Honor --

20 THE COURT: After the three statements had
21 been made? Two of the three.

22 MR. CHAKRAVARTY: Two of the three statements
23 had been made. The last one had been made three months
24 before, in September. But the person who did the
25 interview didn't know that. The person who did the

1 interview, this Officer Bratton, was doing a secondary
2 screening as he does routinely. It was true he was
3 asked to do a secondary screening of this person because
4 of a request.

5 THE COURT: Did he know -- would he testify if
6 asked that he knew why he was asked to do a secondary
7 screening?

8 MR. CHAKRAVARTY: He would testify he was
9 asked by Agent Nevano, an immigration agent in Boston;
10 but he wasn't asked the specific scope of the inquiry.

11 THE COURT: What I'm getting at is will there
12 be any information that will go directly to your point
13 that he was being asked for some reason other than what
14 would appear from the course of the evidence that he was
15 suspected of having made false evidence in the course of
16 his naturalization application? In other words, if
17 that's -- you think -- you've suggested that the
18 relevance is that there was this undisclosed motivation
19 to target him in some way.

20 MR. BONGIORNI: Yes.

21 THE COURT: And I'm asking whether the
22 evidence would permit that inference or whether it would
23 be an equally possible inference on the information that
24 would be available from the witnesses for the jury that
25 he was targeted for a secondary interview because he had

1 already been suspected of making false statements
2 previously. I don't what the procedures are --

3 MR. CHAKRAVARTY: As a proffer then.

4 THE COURT: -- but you're trying to suggest an
5 inference, and it would have to be one that the jury
6 could draw, I guess is my point. So what makes you
7 think they could draw it?

8 MR. BONGIORNI: Well, I believe that the
9 situation is this, and I understand what the
10 government's position is with respect to it; but I'm not
11 so sure that this particular agent will not at least
12 during cross-examination be forced to acknowledge that
13 the only reason that he interviewed Mr. Hamade was not
14 because it was his customary practice to do so, but
15 because there was this NTC lookout that was sent to him
16 by the case agent in this case.

17 THE COURT: And my question is if -- and I
18 don't know whether this is consistent with the way the
19 facts will emerge from the testimony or not, but if it
20 were to be -- appear that the -- that a flagging or a
21 lookout is put on, one of the reasons for doing that is
22 that the person is suspected of having previously made
23 false statements to the immigration authorities; and
24 another might be there's an ongoing investigation;
25 another might be random selection; and another might be

1 various other reasons. In order to get any evidentiary
2 value from it from your perspective, you'd have to
3 direct the jury's inference drawing to a better
4 inference over a less good inference.

5 MR. BONGIORNI: Well, no, as long as it's a
6 permissible inference from the testimony.

7 THE COURT: That would be speculating,
8 wouldn't it?

9 MR. BONGIORNI: No, I don't think it would.
10 The witness could answer the question: "Was one of the
11 reasons that you conducted an interview was because you
12 were requested to do so by the case agent, Mr. Nevano in
13 this case," and taking him through what his normal
14 practices would be. "And did you receive a
15 communication either in dispatch form or in lookout form
16 prior to him coming there from Agent Nevano?" That's
17 certainly something that he can say either yes or no to.

18 THE COURT: All right.

19 MR. BONGIORNI: And if he says "no," well,
20 then the inquiry is over. But if he says, "yes and
21 that's what I was relying on" --

22 THE COURT: Suppose he says yes.

23 MR. BONGIORNI: When I did that -- and then I
24 think you're allowed to explore with him the extent of
25 his knowledge and what was requested of him, whether or

1 not he would have taken it more seriously or less
2 seriously, whether this was something that was -- that
3 he knew was important and what steps he took to ensure
4 that there might be either some record of it or some
5 witness to it because, as I understand, this is the only
6 claimed witness to an oral statement.

7 THE COURT: Right. I want to know -- all you
8 want to do is say that when you conducted the interview,
9 you were doing it because some investigator asked you
10 to?

11 MR. BONGIORNI: Well, yes, and what
12 information --

13 THE COURT: And did he tell what you his
14 interest was?

15 MR. BONGIORNI: Did he tell you what his
16 interest was, did he make it known to you, all of that,
17 to make a determination of either how important it was
18 or how -- or maybe it wasn't important at all. But I
19 mean, I don't know that at this point. All I've got is
20 the Jencks material, and it's fairly thin to begin
21 with. But what I see the government doing in this case
22 is, in an effort to keep this within the four corners,
23 is to simply pretend that it was all happenstance and I
24 don't think that was the case. And I think that would
25 be a false impression that we're entitled to

1 illuminate.

2 But, as I said, it's not my intention to get
3 into classified information; but I think that's a
4 two-way sword. I think if you ask too many questions
5 about whether somebody's the subject of a Joint
6 Terrorism Task Force investigation, you run the risk the
7 jury's going to --

8 THE COURT: Well, is it possible to pursue the
9 line we just talked about, whether the witness to the
10 oral admission, I guess is the way it would be used,
11 whether the witness to the oral admission had been
12 prompted by an investigator, will it be necessary to
13 identify the investigator's affiliation with that
14 terrorism task force?

15 MR. BONGIORNI: Not from my point of view.

16 MR. CHAKRAVARTY: And certainly not from the
17 government's perspective.

18 THE COURT: So it's just an INS investigator.

19 MR. BONGIORNI: Right.

20 MR. CHAKRAVARTY: And I think it's proper. I
21 think that's what the expected testimony will be. He
22 didn't know -- the agent that receives the oral
23 admissions doesn't know the substance of that.

24 THE COURT: Okay. That's cross-examination of
25 whoever it is, Bratton.

1 MR. CHAKRAVARTY: Right.

2 THE COURT: That's one thing. The other thing
3 is affirmative evidence from Nevano.

4 MR. CHAKRAVARTY: Who is not an expected
5 government witness.

6 THE COURT: I know. He's on the defendant's
7 list. To the same point as the conversation with
8 Bratton?

9 MR. BONGIORNI: Right.

10 THE COURT: Only? Only to the conversation
11 with Bratton?

12 MR. BONGIORNI: Well, it's hard for me to
13 limit myself, Judge, when I haven't seen the evidence
14 unfold. And obviously if I perceive that I should ask a
15 question in that regard, and I know this is a sensitive
16 issue, I'd request to go to the sidebar and make a
17 request of proffer of what I intend to ask and allow the
18 Court to make a ruling.

19 THE COURT: Well, let me ask the government.
20 First of all, before I do that -- no, let me do that
21 first. Bratton is going to testify to an oral statement
22 as to which there will be no other evidence except
23 Bratton's testimony. The statement the government would
24 offer is offered because it was an admission: "I was
25 married in Greece" basically.

1 MR. CHAKRAVARTY: And there's some more
2 details there.

3 THE COURT: Words to that effect. So it tends
4 to -- it's rather significant in a knowingly false
5 allegation, that he admitted that he had knowledge of
6 his own Greek valid marriage, I guess. So it's a fairly
7 significant statement. Why isn't it appropriate to
8 suggest that the person who testifies to the fact of
9 having made the statement can be cross-examined for
10 partiality to a government point of view?

11 MR. CHAKRAVARTY: I think it is to the extent
12 that he is possessed of any kind of additional
13 information aside from a request, in this case, to
14 provide any information obtained during a routine
15 secondary screening exam of an individual, which the
16 testimony will be he does it scores of times on a daily
17 basis, that what he was aware is this information is
18 going to be passed to Agent Nevano and Agent Nevano has
19 an interest in the case. He was not asked what
20 questions to ask, he was not told that marriage was even
21 an issue. Routine questions on a Customs --

22 THE COURT: Well, that will be a matter for
23 his testimony, what he was asked and what he wasn't
24 asked. And if it -- if he testifies and the jury
25 believes him that it was simply would you take a good

1 look at this guy with no other prompting, then not much
2 value to the defendant. On the other hand, if he says,
3 "Here's a guy we've been" -- take the terrorism out of
4 it -- "here's a guy who is under investigation for
5 making false statements, he says that he was never
6 married, see if you can get him to talk about whether he
7 was married before." So now you got a guy coming on the
8 stand saying he made a damaging admission to me about
9 his prior marriage. That's something the jury might
10 want to evaluate.

11 MR. CHAKRAVARTY: And the government concedes
12 if that was at issue, meaning if there is evidence to
13 that, and I don't think the evidence will bear out that
14 way, it seems like there -- as long as it's limited to
15 the extent of what bias he had when he's collecting this
16 information. In this case I think that -- and I don't
17 want to prejudice the evidence, but if the agent is not
18 even aware that these particular words are going to be
19 damaging to the defendant --

20 THE COURT: Right. And that will be the
21 subject -- who knows what he'll say. He may say they
22 never had any conversation; and, as I say, there's very
23 little value that accrues to the defendant from it. I'm
24 not sure we can foreclose him from trying to that
25 limited extent. We'll stop there for now anyway, and

1 we'll have an opportunity after that to see whether
2 Nevano has probative value or worth as a witness in the
3 defense case. We'll have an opportunity to look at
4 that.

5 MR. BONGIORNI: I'm not sure, as I said,
6 whether I'd call him. I asked the government to make
7 him available.

8 THE COURT: I would limit it to that witness,
9 Bratton, and not to the others. I don't see any reason
10 because what is significant here for the defense, it
11 seems to me, is the testimony attributing a damaging
12 admission to the defendant, as opposed to testimony
13 about the making of the statements that form the basis
14 for each of the counts. Those are different matters, it
15 seems to me, and I don't see how the bias argument can
16 work with those when, as you acknowledged, the context
17 isn't the truthfulness that he made the statement,
18 rather it was whether he was doing it knowing that it
19 was false. So I see a clear distinction between Bratton
20 testifying to the damaging admission on the one hand and
21 other witnesses who might testify to the statements at
22 issue in the --

23 MR. BONGIORNI: Can I be heard in that regard,
24 Judge?

25 THE COURT: Sure.

1 MR. BONGIORNI: One of the individuals, I
2 believe it's Toni Swanson -- I'm sorry, Heather
3 Berger -- was apprised prior to the oral part of the
4 interview after the N-400 document was submitted about
5 the existence of the prior marriage. And I would like
6 to be able to inquire of her whether or not she was
7 provided by Agent Nevano a copy of this so-called Greek
8 marriage certificate prior to the interview. Now, I
9 don't think that that calls for an inquiry into
10 terrorism or anything else.

11 THE COURT: Do you have any problem with that,
12 whether she'd seen that?

13 MR. CHAKRAVARTY: Your Honor, this seems like
14 a reasonable line of inquiry. My only caution on both
15 Berger and Bratton is how counsel goes down that road.
16 It's one thing to say this is the scope of the inquiry,
17 but how he characterizes Nevano and that relationship is
18 significant in terms of not casting an unfair dispersion
19 on the defendant. So the government's proposal in that
20 sense is: "Are you familiar with Immigration and
21 Customs Enforcement Agent Nevano, and did you have a
22 conversation with him" as opposed to characterizing it.

23 THE COURT: Agreed?

24 MR. BONGIORNI: I agree to proceed carefully,
25 Judge. And I'm aware of the Court's rulings, and I will

1 do my level best to abide by them. As I said, if I
2 think the state of the evidence indicates I should have
3 some latitude before asking the question, I always place
4 the matter before the Court at sidebar and let the Court
5 make a ruling one way or another.

6 THE COURT: Okay.

7 MR. BONGIORNI: I have some -- I have some
8 requests orally. I know Miss West and I talked about it
9 and she gave me a copy of the government's request for
10 some proposed voir dire questions and I joined in her
11 request, but I would ask the Court to include another
12 question to the jurors about whether or not anybody has
13 any feelings about people who are of the Islamic faith
14 that would prevent them from making a fair and impartial
15 determination in this case because I presume that that's
16 going to come out.

17 THE COURT: Will there be evidence of the
18 defendant's faith?

19 MR. BONGIORNI: I think there will be during
20 his testimony to describe the relationship --

21 THE COURT: Of the marriage?

22 MR. BONGIORNI: -- between him and why there
23 was no marriage. I think as part and parcel of that, I
24 expect that he's going to testify that in the village
25 that he was during 1991, that he was advised to keep his

1 religious background a secret, so forth and so on. So I
2 do expect that to be -- and because all of the
3 documentary evidence that's going to come in shows his
4 Lebanese passport and writing in Arabic and things of
5 that nature, I'd ask the Court to make that inquiry.

6 THE COURT: Okay. I guess I'll ask.

7 MR. CHAKRAVARTY: Your Honor, if I may, in our
8 proposed voir dire questions, we did propose in question
9 three, if you have that in front of you, do you have any
10 opinions whether religious faith, generally without
11 specifying, should have any effect. That was part of
12 our intent to cover that.

13 THE COURT: Okay. I can tell the jurors that
14 this is likely to be a three-or-four-day trial?

15 MR. BONGIORNI: I think two days.

16 THE COURT: I like to surprise them pleasantly
17 rather than the other way around.

18 MS. WEST: Then I think that's safe.

19 THE COURT: I might say it will probably be
20 concluded before the end of the week or something like
21 that. Is that fair?

22 MR. BONGIORNI: Right.

23 MS. WEST: Right.

24 THE COURT: Even with the shortness of the
25 trial, I think we should have some alternates, I guess.